

## Assembly Bill No. 2025

### CHAPTER 161

An act to add Section 1980.5 to, and to add Chapter 5.5 (commencing with Section 1993) to Title 5 of Part 4 of Division 3 of, the Civil Code, relating to real property.

[Approved by Governor July 21, 2008. Filed with  
Secretary of State July 21, 2008.]

#### LEGISLATIVE COUNSEL'S DIGEST

AB 2025, Silva. Commercial real property: termination of tenancy: disposition of personal property.

Existing law provides for the disposition of personal property remaining on the premises at the termination of a tenancy, as specified. Existing law generally provides that if the landlord reasonably believes that the total resale value of the personal property is less than \$300, the landlord may retain the property for his or her own use or dispose of it in any manner.

This bill would provide for the disposition of personal property remaining on the premises of commercial real property, as defined, at the termination of a tenancy, as specified. The bill would also generally provide that, in the case of a tenancy of commercial real property, if the landlord reasonably believes that the total resale value of the personal property is the lesser of \$750 or \$1 per square foot of the premises occupied by the tenant, the landlord may retain the property for his or her own use or dispose of it in any manner. The bill would make conforming changes to related provisions.

*The people of the State of California do enact as follows:*

SECTION 1. Section 1980.5 is added to the Civil Code, to read:

1980.5. Except as provided in Section 1993.01, the provisions of this chapter shall not apply to commercial real property, as defined in subdivision (d) of Section 1954.26. For purposes of this section, commercial real property shall not include self-storage units.

SEC. 2. Chapter 5.5 (commencing with Section 1993) is added to Title 5 of Part 4 of Division 3 of the Civil Code, to read:

#### CHAPTER 5.5. DISPOSITION OF PROPERTY REMAINING ON PREMISES AT TERMINATION OF COMMERCIAL TENANCY

1993. This chapter shall only apply to commercial real property. As used in this chapter:

(a) “Commercial real property” has the meaning specified in subdivision (d) of Section 1954.26. For purposes of this chapter, commercial real property shall not include self-storage units.

(b) “Landlord” means any operator, keeper, lessor, or sublessor of any furnished or unfurnished premises for hire, or his or her agent or successor in interest.

(c) “Owner” means any person other than the landlord who has any right, title, or interest in property.

(d) “Premises” includes any common areas associated therewith.

(e) “Reasonable belief” means the actual knowledge or belief a prudent person would have without making an investigation, including any investigation of public records, except that, if the landlord has specific information indicating that an investigation would more probably than not reveal pertinent information and the cost of an investigation would be reasonable in relation to the probable value of the property involved, “reasonable belief” includes the actual knowledge or belief a prudent person would have if an investigation were made.

(f) “Tenant” includes any lessee or sublessee of any commercial real property and its premises for hire.

1993.01. Notwithstanding Section 1980.5, the requirements of Sections 1982, 1987, and 1990 shall apply to property that is subject to this chapter.

1993.02. (a) This chapter provides an optional procedure for the disposition of property that remains on the premises after a tenancy of commercial real property has terminated and the premises have been vacated by the tenant.

(b) This chapter does not apply if Section 1862.5, 2080.8, 2080.9, or 2081 to 2081.6, inclusive, apply. This chapter does not apply to property that exists for the purpose of providing utility services and is owned by a public utility, whether or not that property is actually in operation to provide those utility services.

(c) This chapter does not apply to any manufactured home, as defined in Section 18007 of the Health and Safety Code, any mobilehome, as defined in Section 18008 of the Health and Safety Code, or to any commercial coach, as defined in Section 18001.8 of the Health and Safety Code, including attachments thereto or contents thereof, whether or not the manufactured home, mobilehome, or commercial coach is subject to registration under the Health and Safety Code.

(d) This chapter does not apply to the disposition of animals to which Chapter 7 (commencing with Section 17001) of Part 1 of Division 9 of the Food and Agricultural Code applies, and those animals shall be disposed of in accordance with those provisions.

(e) This chapter does not apply to residential property or self-storage units.

(f) If the requirements of this chapter are not satisfied, nothing in this chapter affects the rights and liabilities of the landlord, former tenant, or any other person.

1993.03. (a) If property remains on the premises after a tenancy has terminated and the premises have been vacated by the tenant, the landlord shall give written notice to the tenant and to any other person the landlord reasonably believes to be the owner of the property.

(b) The notice shall describe the property in a manner reasonably adequate to permit the owner of the property to identify it. The notice may describe all or a portion of the property, but the limitation of liability provided by Section 1993.08 does not protect the landlord from any liability arising from the disposition of property not described in the notice, except that a trunk, valise, box, safe, vault, or other container that is locked, fastened, or tied in a manner that deters immediate access to its contents may be described as such without describing its contents. The notice shall advise the person to be notified that reasonable costs of storage may be charged before the property is returned, where the property may be claimed, and the date before which the claim must be made. The date specified in the notice shall be a date not less than 15 days after the notice is personally delivered or, if mailed, not less than 18 days after the notice is deposited in the mail.

(c) The notice shall be personally delivered to the person to be notified or sent by first-class mail, postage prepaid, to the person to be notified at his or her last known address and, if there is reason to believe that the notice sent to that address will not be received by that person, also to any other address known to the landlord where the person may reasonably be expected to receive the notice. If the notice is sent by mail to the former tenant, one copy shall be sent to the premises vacated by the tenant.

1993.04. (a) A notice given to the former tenant that is in substantially the following form satisfies the requirements of Section 1993.03:

Notice of Right to Reclaim Abandoned Property

To: \_\_\_\_\_  
(Name of Former tenant)

\_\_\_\_\_  
(Address of former tenant)

When you vacated the premises at \_\_\_\_\_

\_\_\_\_\_,  
(Address of premises, including room, if any)  
the following personal property remained:

\_\_\_\_\_  
(Insert description of the personal property)

You may claim this property at \_\_\_\_\_

\_\_\_\_\_.  
(Address where property may be claimed)

Unless you pay the reasonable cost of storage for all the above-described property, and take possession of the property which you claim, not later than \_\_\_\_\_ (insert date not less than 15 days after notice is personally delivered or, if mailed, not less than 18 days after notice is deposited in the mail) this property may be disposed of pursuant to Civil Code Section 1993.07.

(Insert here the statement required by subdivision (b) of this section)

Dated: \_\_\_\_\_  
 \_\_\_\_\_  
 (Signature of landlord)  
 \_\_\_\_\_  
 (Type or print name of landlord)  
 \_\_\_\_\_  
 (Telephone number)  
 \_\_\_\_\_  
 (Address)

(b) The notice set forth in subdivision (a) shall also contain one of the following statements:

(1) "If you fail to reclaim the property, it will be sold at a public sale after notice of the sale has been given by publication. You have the right to bid on the property at this sale. After the property is sold and the cost of storage, advertising, and sale is deducted, the remaining money will be paid over to the county. You may claim the remaining money at any time within one year after the county receives the money."

(2) "Because you were a commercial tenant and this property is believed to be worth less than the lesser of \$750 or one dollar (\$1) per square foot of the premises you occupied, it may be kept, sold, or destroyed without further notice if you fail to reclaim it within the time indicated above."

1993.05. A notice in substantially the following form given to a person (other than the former tenant) the landlord reasonably believes to be the owner of personal property satisfies the requirements of Section 1993.03:

Notice of Right to Reclaim Abandoned Property

To: \_\_\_\_\_  
 \_\_\_\_\_  
 (Name)  
 \_\_\_\_\_  
 (Address)

When \_\_\_\_\_ vacated the premises at  
 (Name of former tenant)

\_\_\_\_\_,  
 (Address of premises, including room, if any)  
 the following personal property remained:

\_\_\_\_\_  
 (Insert description of the personal property)  
 You may claim this property at \_\_\_\_\_  
 \_\_\_\_\_  
 (Address where property may be claimed)

Unless you pay the reasonable cost of storage for all the above-described property, and take possession of the property that you claim, not later than \_\_\_\_\_ (insert date not less than 15 days after notice is personally delivered or, if mailed, not less than 18 days after notice is deposited in the mail) this property may be disposed of pursuant to Civil Code Section 1993.07.

(Insert here the statement required by subdivision (b) of this section)

Dated: \_\_\_\_\_  
 \_\_\_\_\_  
 (Signature of landlord)  
 \_\_\_\_\_  
 (Type or print name of landlord)  
 \_\_\_\_\_  
 (Telephone number)  
 \_\_\_\_\_  
 (Address)

1993.06. The personal property described in the notice shall either be left on the vacated premises or be stored by the landlord in a place of safekeeping until the landlord either releases the property pursuant to Section 1987 or disposes of the property pursuant to Section 1993.07. The landlord shall exercise reasonable care in storing the property, but he or she is not liable to the tenant or any other owner for any loss not caused by his or her deliberate or negligent act.

1993.07. (a) (1) If the property described in the notice is not released pursuant to Section 1987, it shall be sold at public sale by competitive bidding. However, if the landlord reasonably believes that the total resale value of the property not released is less than the threshold amount, the landlord may retain the property for his or her own use or dispose of it in any manner. Nothing in this section shall be construed to preclude the landlord or tenant from bidding on the property at the public sale.

(2) For the purposes of this section, “threshold amount” means the lesser of seven hundred fifty dollars (\$750) or one dollar (\$1) per square foot of the premises occupied by the tenant.

(b) Notice of the time and place of the public sale shall be given by publication pursuant to Section 6066 of the Government Code in a newspaper of general circulation published in the county where the sale is to be held. The last publication shall be not less than five days before the sale is to be held. The notice of the sale shall not be published before the last of the dates specified for taking possession of the property in any notice given pursuant to Section 1993.03. The notice of the sale shall describe the property to be sold in a manner reasonably adequate to permit the owner of the property to identify it. The notice may describe all or a portion of the property, but the limitation of liability provided by Section 1993.08 does not protect the landlord from any liability arising from the disposition of property not described in the notice, except that a trunk, valise, box, safe, vault, or other container that is locked, fastened, or tied in a manner that deters immediate access to its contents may be described as such without describing its contents.

(c) After deduction of the costs of storage, advertising, and sale, any balance of the proceeds of the sale that is not claimed by the former tenant or an owner other than the tenant shall be paid into the treasury of the county in which the sale took place not later than 30 days after the date of sale. The former tenant or other owner may claim the balance within one year from the date of payment to the county by making application to the county

treasurer or other official designated by the county. If the county pays the balance or any part thereof to a claimant, neither the county nor any officer or employee thereof is liable to any other claimant as to the amount paid.

1993.08. (a) Notwithstanding subdivision (c) of Section 1993.02, if the landlord releases to the former tenant property that remains on the premises after a tenancy is terminated, the landlord is not liable with respect to that property to any person.

(b) If the landlord releases property pursuant to Section 1987 to a person, other than the former tenant, who is reasonably believed by the landlord to be the owner of the property, the landlord is not liable with respect to that property to any of the following persons:

(1) A person to whom notice was given pursuant to Section 1993.03.

(2) A person to whom notice was not given pursuant to Section 1993.03 unless the person proves that, prior to releasing the property, the landlord believed or reasonably should have believed that the person had an interest in the property and also that the landlord knew or should have known upon reasonable investigation the address of the person.

(c) If property is disposed of pursuant to Section 1993.07, the landlord is not liable with respect to that property to any of the following persons:

(1) A person to whom notice was given pursuant to Section 1993.03.

(2) A person to whom notice was not given pursuant to Section 1993.03 unless the person proves that, prior to disposing of the property pursuant to Section 1993.07, the landlord believed or reasonably should have believed that the person had an interest in the property and also that the landlord knew or should have known upon reasonable investigation the address of the person.

1993.09. If a notice of belief of abandonment is given to a lessee pursuant to Section 1951.3, the notice to the former tenant given pursuant to Section 1993.03 may, but need not, be given at the same time as the notice of belief of abandonment, even though the tenancy is not terminated until the end of the period specified in the notice of belief of abandonment. If the notices are so given, the notices may, but need not, be combined in one notice that contains all the information required by the sections under which the notices are given.